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PATTON BOGGS LLP			ZUBAJLO, JENNIFER L	
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			06/23/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/829,271	CERESOLI, CARL	
	<b>Examiner</b>	<b>Art Unit</b>	
	JENNIFER ZUBAJLO	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 April 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 and 18-30 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16 and 18-30 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-4, 9-13, 18, 19, 21-24, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robin Mackay (Pub. No.: US 2003/0075597 A1) in view of Chih-Ping Fang (Patent No.: US 6,536,941 B1), further in view of Klaus Hofrichter (Pub. No.: US 2003/0028903 A1).

As to claim 1, Mackay teaches a wearable data storage device comprising: a data storage unit; a non-clasping data transmitter; a non-clasping data receiver; a male clasping data connector; a female clasping data connector; and a band having a first end and a second end (see Abstract, figure 1, and [0020]-[0025]).

Mackay does not directly teach wherein the first end of the band comprises the male clasping data connector and the second end of the band comprises the female clasping data connector, wherein the male clasping data connector and the female clasping data connector form a clasping mechanism.

Fang teaches a wearable data storage device wherein the first end of the band comprises the male clasping data connector (see figure 1 – note that location of data connectors are simply choices of design).

Hofrichter teaches a data storage device wherein the second end of the band comprises the female clasping data connector (see figure 2 and [0020] – note that location of data connectors are simply choices of design).

Note that Fang teaches wherein the male clasping data connector and the female clasping mechanism form a clasping mechanism (see fig. 1 – male clasping data connector 33 and female clasping mechanism 34). Further note it would be obvious to substitute the functionality of the female data connector of Hofrichter into the female clasping mechanism of Fang in order to allow for daisy chaining.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the well known storage device that has the male output and female input taught by Hofrichter into the design of Fang and then further incorporate into the data storage device of Mackay in order to provide a personal disk that can be worn on the wrist while still keeping the appearance of the accessory, thus making it a multifunction product with good portability (see Fang column 1 lines 50-55).

As to claim 22, Mackay teaches a method of transferring data comprising: providing a first wearable data storage device comprising: a data storage unit; a non-clasping data transmitter; a non-clasping data receiver; a male clasping data connector; a female clasping data connector; a band having a first end and a second end (see

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Abstract, figure 1, and [0020]-[0025]), connecting a non-clasping data transmitter on a first wearable data storage device to a non-clasping data receiver on a second wearable data storage device (see [0020] and [0023]).

Mackay does not directly teach wherein the first end of the band comprises the male clasping data connector and the second end of the band comprises the female clasping data connector; and wherein the male clasping data connector and the female clasping data connector form a clasping mechanism.

Fang teaches a wearable data storage device wherein the first end of the band comprises the male clasping data connector (see figure 1 – note that location of data connectors are simply choices of design).

Hofrichter teaches a data storage device wherein the second end of the band comprises the female clasping data connector (see figure 2 and [0020] – note that location of data connectors are simply choices of design).

Note that Fang teaches wherein the male clasping data connector and the female clasping mechanism form a clasping mechanism (see fig. 1 – male clasping data connector 33 and female clasping mechanism 34). Further note it would be obvious to substitute the functionality of the female data connector of Hofrichter into the female clasping mechanism of Fang in order to allow for daisy chaining.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the well known storage device that has the male output and female input taught by Hofrichter into the design of Fang and then further incorporate into the data storage device of Mackay in order to provide a personal disk

that can be worn on the wrist while still keeping the appearance of the accessory, thus making it a multifunction product with good portability (see Fang column 1 lines 50-55).

As to claim 23, Mackay teaches a method of transferring data comprising:  
providing a first wearable data storage device comprising: a data storage unit; a non-clasping data transmitter; a non-clasping data receiver; a male clasping data connector; a female clasping data connector; a band having a first end and a second end (see Abstract, figure 1, and [0020]-[0025]).

Mackay does not directly teach wherein the first end of the band comprises the male clasping data connector and the second end of the band comprises the female clasping data connector; and wherein the male clasping data connector and the female clasping data connector form a clasping mechanism; connecting the male clasping data connector of the first wearable data storage device to personal computer.

Fang teaches a wearable data storage device wherein the first end of the band comprises the male clasping data connector (see figure 1 – note that location of data connectors are simply choices of design), connecting the male clasping data connector of a first wearable data storage device to personal computer (see figure 5).

Hofrichter teaches a data storage device wherein the second end of the band comprises the female clasping data connector (see figure 2 and [0020] – note that location of data connectors are simply choices of design).

Note that Fang teaches wherein the male clasping data connector and the female clasping mechanism form a clasping mechanism (see fig. 1 – male clasping data

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connector 33 and female clasping mechanism 34). Further note it would be obvious to substitute the functionality of the female data connector of Hofrichter into the female clasping mechanism of Fang in order to allow for daisy chaining.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the well known storage device that has the male output and female input taught by Hofrichter into the design of Fang and then further incorporate into the data storage device of Mackay in order to provide a personal disk that can be worn on the wrist while still keeping the appearance of the accessory, thus making it a multifunction product with good portability (see Fang column 1 lines 50-55).

As to claim 28, Mackay teaches a wearable data storage device comprising: a data storage unit; a non-clasping data transmitter; a non-clasping data receiver; a male clasping data connector; a female clasping data connector; and a band having a first end and a second end (see Abstract, figure 1, and [0020]-[0025]).

Mackay does not directly teach wherein the male clasping data connector is located proximal to the first end of the band and the female clasping data connector is located proximal to the second end of the band.

Fang teaches a wearable data storage device wherein the male clasping data connector is located proximal to the first end of the band (see figure 1 – note that location of data connectors are simply choices of design).

Hofrichter teaches a data storage device wherein the female clasping data connector is located is located proximal to the second end of the band (see figure 2 and [0020] – note that location of data connectors are simply choices of design).

Note that Fang teaches wherein the male clasping data connector and the female clasping mechanism form a clasping mechanism (see fig. 1 – male clasping data connector 33 and female clasping mechanism 34). Further note it would be obvious to substitute the functionality of the female data connector of Hofrichter into the female clasping mechanism of Fang in order to allow for daisy chaining.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the well known storage device that has the male output and female input taught by Hofrichter into the design of Fang and then further incorporate into the data storage device of Mackay in order to provide a personal disk that can be worn on the wrist while still keeping the appearance of the accessory, thus making it a multifunction product with good portability (see Fang column 1 lines 50-55).

As to claim 2, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 1 (see above rejection). Fang also teaches wherein the data storage unit is a flash memory chip (see column 1 lines 60-63).

As to claim 3, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 1 (see above rejection). Mackay also teaches the wearable data storage device further comprising a display (see [0028] and [0031]).

As to claim 4, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 3 (see above rejection). Mackay and Fang do not directly teach wherein the display is adapted to rotate. However, Examiner is taking Official Notice that it is common and well known in the art to have a display that rotates.

As to claim 9, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 1 (see above rejection). Mackay also teaches wherein the non-clasping data transmitter of a first wearable data storage device is adapted to transfer data to the non-clasping data receiver of a second wearable data storage device (see [0023]).

As to claim 10, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 9 (see above rejection). Examiner is taking Official Notice to the teaching of transmission by use of infrared technology. This is common in the art and a well known way to directly transfer data.

As to claim 11, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 1 (see above rejection). Hofrichter also teaches wherein the male clasping data connector of a first wearable data storage device is adapted to transfer data to the female clasping data connector of a second wearable data storage device (see [0020]).

As to claim 12, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 11 (see above rejection). Hofrichter also teaches wherein a plurality of wearable storage devices are adapted to be daisy-chained by connecting the male clasping data connector of one wearable data storage device to the female clasping data connector of the succeeding wearable data storage device in the daisy-chain (see figure 2 and [0020]).

As to claim 13, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 12 (see above rejection). Fang also teaches wherein the wearable data storage device is adapted to communicate with a personal computer through the personal computer's USB port (see figure 5).

As to claim 18, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 1 (see above rejection). Fang also teaches wherein the band is adjustable (see figure 1).

As to claim 19, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 3 (see above rejection). Examiner is taking Official Notice to the teaching of a backlight within the display of a wearable device such

as a watch display. Backlights in watch displays are common and well known in the art.

As to claim 21, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 1 (see above rejection). Hofrichter also teaches wherein the male and female data clasping connectors are selected from the groups consisting of USB, serial, and parallel (see [0017]).

As to claim 24, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 23 (see above rejection). Hofrichter teaches connecting the male clasping data connector of a first wearable data storage device to a female clasping data connector of a second wearable data storage device (see [0020]). Note it would be obvious to incorporate the well known storage device that has the male output and female input taught by Hofrichter into the design and method of Fang in order to provide a personal disk that can be worn on the wrist while still keeping the appearance of the accessory, thus making it a multifunction product with good portability (see Fang column 1 lines 50-55).

As to claim 29, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 28 (see above rejection). As to the teaching of location of the data connectors being on the sides of the band, this is simply an engineering choice of design.

As to claim 30, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 29 (see above rejection). Mackay also teaches a clasping mechanism which can neither transmit nor receive data (see [0114]).

3. Claims 5-8, 14-16, 20, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robin Mackay (Pub. No.: US 2003/0075597 A1) in view of Chih-Ping Fang (Patent No.: US 6,536,941 B1), in view of Klaus Hofrichter (Pub. No.: US 2003/0028903 A1), and further in view of Chandrasekhar Narayanaswami (Patent No.: US 6,556,222).

As to claims 5-8, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claims 3 and 4 (see above rejection).

The combination of Mackay, Fang, and Hofrichter do not directly teach a wearable data wherein the display is adapted to display text and graphics or comprise at least one button that is a push button or a scroll button.

Narayanaswami teaches a wearable data wherein the display is adapted to display text and graphics (see column 1 lines 7-14, column 2 lines 53-67, and column 6 lines 36-38) and the display comprises at least one button that is a push button or a scroll button (see column 4 lines 4-14 and column 5 lines 42-44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the various display functions of a

wearable data storage device as taught by Narayanaswami into the wearable data storage device as taught by the combination of Mackay, Fang, and Hofrichter in order to provide a wearable device equipped with an interactive user interface for providing a variety of desktop PC-like functions.

As to claims 14-16, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 13 (see above rejection).

The combination of Mackay, Fang, and Hofrichter do not directly teach wherein the wearable data storage device is adapted to synchronize with a calendar program, an email program or internet websites on the personal computer.

Narayanaswami teaches wherein the wearable data storage device is adapted to synchronize with a calendar program, an email program and internet websites on the personal computer (see column 5 lines 20-24, column 7 lines 3-9, 21-29, 42-46, and 57-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the various display functions of a wearable data storage device as taught by Narayanaswami into the wearable data storage device as taught by the combination of Mackay, Fang, and Hofrichter in order to provide a wearable device equipped with an interactive user interface for providing a variety of desktop PC-like functions.

As to claim 20, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 1 (see above rejection).

The combination of Mackay, Fang, and Hofrichter do not directly teach a wearable data storage device further comprising a speaker.

Narayanaswami teaches a wearable data storage device further comprising a speaker (see figure 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the various display functions of a wearable data storage device as taught by Narayanaswami into the wearable data storage device as taught by the combination of Mackay, Fang, and Hofrichter in order to provide a wearable device equipped with an interactive user interface for providing a variety of desktop PC-like functions.

As to claims 25-27, the combination of Mackay, Fang, and Hofrichter teach the wearable data storage device of claim 23 (see above rejection).

The combination of Mackay, Fang, and Hofrichter do not directly teach synchronizing calendar data, email data, or data from websites on the internet in the computer with data in the first wearable data storage device.

Narayanaswami teaches synchronizing calendar data, email data, or data from websites on the internet in the computer with data in the first wearable data storage device (see column 5 lines 20-24, column 7 lines 3-9, 21-29, 42-46, and 57-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the various display functions of a wearable data storage device as taught by Narayanaswami into the design and method of the combination of Mackay, Fang, and Hofrichter in order to provide a wearable device equipped with an interactive user interface for providing a variety of desktop PC-like functions.

**Note:** References cited include just some examples that Examiner feels best explain the prior art rejection. However, the entire references teach the scope of the claims in more detail. Examiner recommends that Applicant read the full disclosures.

### ***Response to Arguments***

4. Applicant's arguments filed 4/6/09 with respect to claims 22-27 have been considered but are moot in view of the new ground(s) of rejection.
5. Applicant's arguments filed 4/6/09 with respect to claims 1-16, 18-21, and 28-30 have been fully considered but they are not persuasive.
6. Applicant argues that "The Office Action at page 3 suggests Mackay discloses a male clasping data connector and a female clasping data connector as required in independent claim 1. Applicant respectfully disagrees. Independent claim 1 requires two distinct sets of data transfer devices: non-clasping and clasping." Examiner disagrees. Mackay does teach two distinct sets of data transfer devices (see Mackay [0023] – "There are preferably first and second contact means that are physically and

functionally separate from one another. The first contact means is suitably adapted for direct data transfer contact with a functionally identical contact means of another digital data storage apparatus. To that end, the first contact means suitably comprises interlock formations co-operable with functionally identical interlock formations of the other apparatus to effect and maintain said data transfer contact. It is preferred that these interlock formations are adapted to snap fit resiliently together when the respective contact means are pushed together.” and [0025] – “The second contact means, on the other hand, is preferably adapted for direct data transfer contact with a terminal or interface. The second contact means may therefore comprise first and second conductors exposed on a surface of the apparatus, which conductors are preferably on opposed sides or edges of the apparatus.”

Applicant argues that “Neither the conductive strips 14 nor the coupler 16 combine to form a clasp mechanism as required by the claims.” Examiner disagrees. A clasp is defined as: a device for holding objects or parts together or a fastener that is used to hold two things together. Therefore by definition, Mackay does teach that the coupler 16 combines to form a clasp mechanism (see [0023] – “the first contact means suitably comprises interlock formations co-operable with functionally identical interlock formations of the other apparatus to effect and maintain said data transfer contact. It is preferred that these interlock formations are adapted to snap fit resiliently together when the respective contact means are pushed together”).

Applicant argues “neither Fang nor Hofrichter discloses male and female data connectors form a clasping mechanism as required by independent claim 1”. Examiner

disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Note that Fang teaches wherein the male clasping data connector and the female clasping mechanism form a clasping mechanism (see fig. 1 – male clasping data connector 33 and female clasping mechanism 34). Further note it would be obvious to substitute the functionality of the female data connector of Hofrichter into the female clasping mechanism of Fang in order to allow for daisy chaining.

Applicant further argues that “Location of data connectors are not simply design choices if the location hinders operation of a device. Incorporating a female data connector on the second end of the band would hinder operation of the buckle 320 of Fang.” Examiner disagrees. Incorporating the female data connector of Hofrichter into the female connector 34 of Fang would not hinder the operation of the device since the male connector 33 of Fang is placed into the connector of 34 to serve as a holder or as protection against dust (see Fang col. 3 lines 29-32 – “An upper space (342) defined in the carrier (34) serves as a holder for the connector (33) from the first strap (31) when the straps are buckled up, and it is also a connector plug for protection against dust when not in use”). Also since the main purpose of the invention “a highly portable, wearable data storage device with the security direct data transfer” is met by the references, the location of data connectors is simply a choice of design.

Therefore, the references, as combined, do disclose or make obvious every element of the claimed invention.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pub. No.: US 2004/0081025 A1 and Patent No.: US 6,801,476 B2.
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER ZUBAJLO whose telephone number is

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(571)270-1551. The examiner can normally be reached on Monday-Friday, 8 am - 5 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on (571) 272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer Zubajlo/  
Examiner, Art Unit 2629  
6/17/09

/Amare Mengistu/  
Supervisory Patent Examiner, Art Unit 2629